Criminal Revision No.309 of 1994.

IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

...

Date of Decision November 28 , 2007.

Hawa Singh and another **...** Petitioner

VERSUS

State of Haryana **...**Respondent

1. Whether the Reporters of Local Newspapers may be allowed to see the judgment ?

2. To be referred to the Reporters or not ?

3. Whether the judgment should be reported in the Digest ?

CORAM :

HON'BLE MR. JUSTICE MOHINDER PAL.

Present: Mr. Baljinder Singh, Advocate,,
for the petitioner.

Mr. R.S. Kundu, Additional Advocate General, Haryana.

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MOHINDER PAL, J.

Petitioners Hawa Singh and Hoshiar Singh along with their co-accused Ishwar Singh, Ajit and Balwant, were tried under

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Sections 148 and 506 read with Section 149 of the Indian Penal Code (hereinafter referred to as `the Code') on the allegation that on June 09, 1985, in the area of Rohtak City, they all were members of an unlawful assembly, armed with `Lathis' and `Gandasi', and in prosecution of the common object of such assembly committed the offence of rioting and also threatened Dharampal (complainant) with dire consequences. The trial Court vide judgment of conviction and sentence order, both dated July 24, 1992, convicted them under Sections 148 and 506 read with Section 149 of the Code and sentenced each of them to undergo maximum rigorous imprisonment for one year besides fine of Rs.1,000/-. The appeal filed by them was partly allowed by the lower appellate Court inasmuch as co-accused Ajit was acquitted, co-accused Balwant Singh and Ishar Singh were extended the benefit of probation and sentence of rigorous imprisonment of petitioners Hawa Singh and Hoshiar Singh was reduced to six months.

Learned counsel for the petitioners does not challenge their conviction. He, however, submitted that the occurrence relates to June 09, 1985. After a protracted trial, the petitioners wasre sentenced on July 24, 1992, by the trial Court and their appeal was dismissed by the lower appellate Court on April 27, 1994, when they were ordered to be taken into custody. They were ordered to be released on bail by this Court on May 10, 1994, when this revision petition was admitted for hearing. Learned counsel prayed that keeping in view the fact that

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Sword of Damocles remained hanging over their head for more than twenty two years, lenient view may be taken against the petitioners and that the impugned sentence order may be modified. Moreover, co-accused of the petitioners, namely, Ishwar Singh and Balwant were ordered to be released on probation by the lower appellate Court.

After considering the submissions made by learned counsel for the petitioners and taking into account the fact that the accused have already undergone incarceration for about a fortnight, I think no useful purpose will be served in sending the petitioners to prison again at this stage and ends of justice will be adequately met if they are ordered to be released on probation.

Consequently, conviction of the petitioners under Section 148 and 506 read with Section 149 of the Code is maintained. Instead of sending the petitioners to jail, they are ordered to be released on probation for a period of one year. They should furnish personal bonds in the sum of Rs.20.000/- each with one surety of the like amount to the satisfaction of the Chief Judicial Magistrate, Rohtak, undertaking to appear and receive sentence when called upon to do so during this period and, in the meantime, to maintain peace and be of good behaviour. The said bonds will be furnished within a period of two months of the receipt of a copy of this order. The sentence of fine and default clause shall remain unaltered. Needless to say, if the petitioners fail to furnish the requisite bonds, as afore-stated, this

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revision petition shall be deemed to have been dismissed.

The impugned sentence order stands modified to the extent indicated above.

This revision petition stands disposed of accordingly.

November 28 , 2007.
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(MOHINDER PAL)
JUDGE